

Sponsor: Kenley  
Final Reading: January 4, 2021

**ORDINANCE #54-20**

**AN ORDINANCE TO AMEND THE LAND USE AND DEVELOPMENT CODE OF THE TOWN OF WYOMING TO INCLUDE BONDING REQUIREMENTS AND STREET ACCEPTANCE STANDARDS AND TO REPEAL ALL OTHER INCONSISTENT ORDINANCES**

**WHEREAS**, the Town of Wyoming is authorized pursuant to *22 Del. C.* Chapter 3 and Section 18.20 of the Town Charter to enact zoning regulations in the Town of Wyoming;

**WHEREAS**, the Town of Wyoming enacted zoning regulations by adopting the Land Use and Development Code of the Town of Wyoming on August 3, 2009;

**WHEREAS**, the Town of Wyoming is authorized pursuant to section 15-6 of its Land Use and Development Code to amend the text of the Land Use and Development Code after the amendment has been reviewed by the Planning and Zoning Committee and the Town Council has held a public hearing that was advertised in a newspaper of general circulation in the town at least 15 days prior to the hearing;

**WHEREAS**, in the opinion of the Town Council, it is necessary to amend the Land Use and Development Code to create bonding requirements and street acceptance standards for subdivision development projects in order to further the health, safety, and welfare of the town;

**WHEREAS**, the Planning and Zoning Committee reviewed the proposed text amendment at its meeting held October 28, 2020, and recommended approval to the Town Council;

**WHEREAS**, a public hearing on the proposed text amendment was held before the Town Council on January 4, 2021, notice of which was published on December 19, 2020 in the Delaware State News (newspaper), being at least 15 days before the public hearing; and

**WHEREAS**, all members of the public were given an opportunity to comment on the proposed amendment to the Land Use and Development Code at the public hearing, and after hearing comments from the public and considering the proposed amendment to the text of the Land Use and Development Code, the Town Council believes it is in the best interest of the public health, safety, and welfare to create bonding requirements and street acceptance standards in the Land Use and Development Code and to repeal all ordinances inconsistent therewith.

**NOW THEREFORE, BE IT HEREBY ENACTED** by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that Ordinance #3-11 “An Ordinance Governing the Acceptance of Streets and Related Utilities into the Town Limits of the Town of Wyoming” and any other ordinances inconsistent with this Ordinance are hereby

repealed in their entirety, and the Land Use and Development Code of the Town of Wyoming is hereby amended as follows:

**Section 1.** Amend Section 11-9 (Inspections and Fees) by making insertions as shown by underline and deletions as shown by strike through as follows:

C. Closed-Circuit TV Inspections.

1. Prior to the Town accepting any alley, street, highway or right-of-way, all storm water and sewer system lines proposed for dedication to the Town shall be inspected by closed-circuit TV inspection or equivalent technology. The inspection shall be accompanied with an audio description of location based on catch basin and/or pipe numbers, which correspond to the numbering system shown on the drawings. Crossroad culvert pipes, which can be visually inspected, shall be exempt from this requirement.
2. The town shall not accept the storm water and/or sewer system lines, and no bond shall be released, until the Town has reviewed the inspection findings and determined that the improvements were completed in accordance with the Town Code. The inspection requirements are as follows:
  - a. Inspections shall be performed by the Camden-Wyoming Sewer & Water Authority.
  - b. Forty-eight (48) hours' notice shall be given to the Town so that the Town's inspector may be present.
  - c. A type written inspection report documenting the condition of the system shall be submitted with the video and audio tapes.
  - d. All defects shall be repaired and a subsequent inspection shall be performed pursuant to the requirements herein.
  - e. All storm water and sewer system lines shall be mandrel tested using a "GO-NO-GO Mandrel". The tests shall be performed no sooner than 60 days after the installation of the pipe under the supervision of the Town's inspector.
  - f. Storm water and sewer system lines shall be inspected and accepted by the Town as an interconnected network and not on a pipe-by-pipe basis.
  - g. All pipes shall be empty of water prior to video and mandrel inspections.
  - h. The Developer/Contractor and Owner shall be responsible for all costs associated with these inspections and any necessary repairs.

**Section 2.** Amend Section 11-10 (Bonds and Guaranty) by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 11-10. Bonds and Guaranty; Acceptance of Improvements

A. Performance and Payment Bond or Guaranty Required.

1. As a condition of approval of improvement plans, the Town Council shall require the applicant to post a performance and payment bond or other guaranty for any improvements required by the application of this Land Use and Development

- Code in an amount sufficient to construct the improvements and in a form acceptable to the Town Attorney.
2. The amount of such bond shall be no less than 125% of the cost of improvements. Bonding and guaranties may be required for street and road improvements, surface-drainage facilities, erosion- and sedimentation-control facilities, water-supply facilities, sanitary-sewer facilities, forested buffer strips, open space improvements, or other improvements deemed necessary by the Town.
  3. No construction permits shall be issued until the performance and payment bond or other guaranty is in place, which bond or guaranty shall not be released until the improvements have been accepted by the Town in accordance with the requirements in subsection C.
- B. Additional Bonds or Guarantees Authorized—Where a public agency other than the Town has the authority to require performance guaranties, but in the determination of the Town Council those guaranties are not adequate to ensure completion of improvements, the Town Council may require additional bonds or guaranties in accordance with the provisions of Subsection A of this Section.
- C. Acceptance of Improvements. Prior to the Town accepting improvements, the following conditions shall be satisfied:
1. Inspections. All improvements shall be inspected pursuant to § 11-9 and found by the Town Engineer to have been completed in conformance with the development standards adopted by the Town.
  2. Deed and bill of sale. At such time as the Town is prepared to accept ownership and responsibility for the improvements, appropriate deeds and/or bill of sale are prepared, in form acceptable to the Town, and executed by the owner and delivered to the Town. The owners shall be responsible for the preparation and recordation of these documents at their sole expense.
  3. Maintenance bond. A maintenance bond, in form acceptable to the Town, is provided that guarantees the proper repair or replacement of any accepted improvements necessitated by defective materials, workmanship, or design. The maintenance bond shall be in an amount equal to 10% of the actual cost of installing/constructing the bonded improvements and shall continue in full force and effect for one year from the date of the Town's acceptance of the improvements. The maintenance bond shall guarantee the proper repair or replacement of any accepted improvement necessitated by defective materials, workmanship, or design.
  4. Release of liens. A release of liens in proper form shall be provided by the owner or developer evidencing the release of liens by all persons furnishing labor or materials for the improvements.

**Section 2. Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions,

standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

**Section 3. Effective Date.** This Ordinance shall become effective immediately upon its adoption by the Town Council.

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**Synopsis**

This Ordinance repeals Ordinance #3-11 "An Ordinance Governing the Acceptance of Streets and Related Utilities into the Town Limits of the Town of Wyoming" and any other ordinances inconsistent with this Ordinance and incorporates the provisions of Ordinance #3-11 into the Land Use and Development Code. This Ordinance amends the Land Use and Development Code to clarify that payment bonds are required for development projects, and performance and payment bonds and other guarantees will not be released until improvements have been accepted by the Town. In order for the Town to accept improvements, this Ordinance requires that the improvements pass inspection, a deed and/or bill of sale be provided, a maintenance bond in the amount of 10% of the construction costs that's valid for one year be provided, and a release of liens be provided.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on January 4, 2021.

So Certifies:

Attest: Audrey Lindale                      Stev Dillman  
Town Clerk    Mayor

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This shall certify that a copy of this Ordinance was posted at the Town Hall on January 5, 2021.

So Certifies:

1/5/21    Rosemary Jiman  
Date